

Re: CAN-SPAM Act Rulemaking, Project No. R411008

To the Commissioners,

As an email user, and SPAM-sufferer, I applaud your efforts to curb the problem of unsolicited bulk email. However, I am very concerned about the proposed requirement for merchants to maintain suppression lists.

As the publisher of a legitimate, confirmed-opt-in email newsletter, I have struggled to implement CAN-SPAM requirements for my own publication. Even though CAN-SPAM is not intended to regulate newsletters like ours, given consumers sensitivity to email (and the potentially crippling costs to a small business in defending against an erroneous complaint), we feel it is prudent to comply - and most of the requirements are actually less restrictive than the "best practices" that we already follow.

The major exception to this rule is in the concept of a "brand" opt-out, and the associated suppression list requirements. In addition to being expensive or even impossible for a small business to implement, this is likely to misconstrue the intent of the consumer, and even harm them.

First, a consumer who unsubscribes from our newsletter probably simply wants to stop receiving our newsletter. It is possible, but unlikely, that they instead (or also?) want to be prohibited from receiving any other email newsletter that contains an advertisement for any product that happened to run an ad in the issue of our newsletter from which they unsubscribed.

Even in the case of email stand-alone "blast" advertising, it isn't possible to determine if my unsubscribe request is intended to stop the 20 emails I receive each day (for different products) from the same email company, or to stop the 10 I receive for the same product, but from different companies, or both. From my personal experience, my intent would be different for different emails. And although it is possible to include separate unsubscribe links for each purpose in an email "blast", this would put an unreasonable burden on a newsletter with multiple advertisers.

Second, and of greater concern, would be the requirement to share unsubscriber information with third parties, including advertisers, email publishers, and affiliates, in order to enforce "brand" suppression lists. As you are no doubt aware, the email industry lacks the "bonded mailing houses" that are prevalent in the paper "junk mail" industry. In order to support a "brand" suppression list, I would be forced to share (at least) the email addresses of everyone who unsubscribed from my newsletter with:

- all advertisers (to support their "brand" opt-out);

- any email newsletter or "blast" publisher where I ran my ad (to support my "brand" suppression);
- any affiliate who re-sells any of my products (again, to support opt-outs from my "brand").

In addition to the fact that this would violate our privacy agreement with our subscribers, this is a dangerous practice that would be likely to put these unsubscribers' personal information in the hands of spammers. Although we require (and attempt to verify) that any publisher we use for our advertising, and any of our affiliates, use the legitimate opt-in practices that we follow and endorse (to protect our brand), I would not be comfortable sharing any subscriber's information with them! And we don't need to investigate the email practices of those who advertiser with us, since we can and do enforce our own "best practices" in our mailings.

Finally, let me say that the clutter in my own in-box could be greatly, and satisfactorily, reduced by enforcing other aspects of the CAN-SPAM Act, specifically the requirements for accurate email sender information in the headers, and for real, working opt-out mechanisms. Like most email users, I am unable to use current "opt-out" links because they are widely abused by spammers to collect working email addresses - and I suspect strongly that they will similarly abuse any suppression-list efforts. Enforcing these existing rules will be much more effective than imposing unwieldy, expensive and abuse-prone measures like a "brand" opt-out or suppression list.

Thank you again for your efforts to curb email abuse, and thank you for taking the time to hear my input.

Respectfully,

Steve Knowles
Oakland, CA USA